

SO. CAL. EQUAL ACCESS GROUP  
Jason Yoon (SBN 306137)  
John Y. Kim (SBN 225248)  
Jason J. Kim (SBN 190246)  
101 S. Western Ave., Second Floor  
Los Angeles, CA 90004  
Telephone: (213) 252-8008  
Facsimile: (213) 252-8009  
scalequalaccess@yahoo.com

Attorneys for Plaintiff  
SERGIO MUNOZ-GUZMAN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SERGIO MUNOZ-GUZMAN,

Plaintiff,

vs.

JB&L INCORPORATED D/B/A CHILI  
VERDE; and DOES 1 through 10,  
Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
VIOLATION OF:

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT, CAL CIV. CODE §§ 51 -  
52 et seq.;
3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA'S UNFAIR  
COMPETITION ACT, CAL BUS & PROF  
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff SERGIO MUNOZ-GUZMAN ("Plaintiff") complains of Defendants  
JB&L INCORPORATED D/B/A CHILI VERDE; and DOES 1 through 10  
("Defendants") and alleges as follows:

**JURISDICTION AND VENUE**

1  
2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for  
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,  
5 arising from the same nucleus of operating facts, are also brought under California law,  
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
9 property which is the subject of this action is located in this district, in Redondo Beach,  
10 Los Angeles County, California, and that Plaintiff's causes of action arose in this district.

**PARTIES**

11  
12 4. Plaintiff is a California resident with a physical disability with substantial  
13 limitation in his ability to walk. Plaintiff requires the use of a wheelchair at all times  
14 when traveling in public.

15 5. Defendants are, or were at the time of the incident, the real property owners,  
16 business operators, lessors and/or lessees of the real property for CHILI VERDE  
17 ("Business") located at or about 2790 Manhattan Beach Blvd., Redondo Beach,  
18 California.

19 6. The true names and capacities, whether individual, corporate, associate or  
20 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
21 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
22 Court to amend this Complaint when the true names and capacities have been  
23 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
24 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
25 Plaintiff for the acts herein alleged.

26 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
27 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
28 Defendants, and/or was acting in concert with each of the other Defendants, and in doing

1 the things alleged herein was acting with the knowledge and consent of the other  
2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or  
4 failure to act by a defendant or Defendants, such allegations and references shall also be  
5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
6 and severally.

7 **FACTUAL ALLEGATIONS**

8 9. On or about November 1, 2017, Plaintiff went to the Business. On or about  
9 December 9, 2017, Plaintiff returned to the Business. The Business is a restaurant  
10 business establishment, which is open to the public, is a place of public accommodation  
11 and affects commerce through its operation.

12 10. While attempting to enter the Business during each visit, Plaintiff personally  
13 encountered a number of barriers that interfered with his ability to use and enjoy the  
14 goods, services, privileges, and accommodations offered at the Business. To the extent  
15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not  
16 limited to, the following:

- 17 a. Defendants failed to comply with the federal and state standards for  
18 the parking space designated for persons with disabilities. Defendants  
19 failed to provide the parking space identification sign with the  
20 International Symbol of Accessibility.
- 21 b. Defendants failed to comply with the federal and state standards for  
22 the parking space designated for persons with disabilities. Defendants  
23 failed to post required signage such as "Van Access," "Minimum Fine  
24 \$250" or "Unauthorized Parking."
- 25 c. Defendants failed to maintain the parking space designated for  
26 persons with disabilities to comply with the federal and state  
27 standards. Defendants failed to provide proper van accessible space  
28 designated for the persons with disabilities.

- 1 d. Defendant failed to maintain the parking space designated for persons  
2 with disabilities to comply with the federal and state standards.  
3 Defendants failed to paint the ground as required.
- 4 e. Defendants failed to comply with the federal standard for the  
5 restroom. The restroom was not accessible and violated various  
6 American with Disability Act Accessibility Guideline (“ADAAG”)  
7 requirements, including but not limited to the  
8 grab bars.

9 11. These barriers and conditions denied Plaintiff the full and equal access to the  
10 Business. Plaintiff wishes to patronize the Business again as it is conveniently located  
11 for Plaintiff. However, Plaintiff is deterred from visiting the Business because his  
12 knowledge of these violations prevents him from returning until the barriers are removed.

13 12. Based on the violations, Plaintiff alleges, on information and belief, that  
14 there are additional barriers to accessibility at the Business after further site inspection.  
15 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-*  
16 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

17 13. In addition, Plaintiff alleges, on information and belief, that Defendants  
18 knew that particular barriers render the Business inaccessible, violate state and federal  
19 law, and interfere with access for the physically disabled.

20 14. At all relevant times, Defendants had and still have control and dominion  
21 over the conditions at this location and had and still have the financial resources to  
22 remove these barriers without much difficulty or expenses to make the Business  
23 accessible to the physically disabled in compliance with ADDAG and Title 24  
24 regulations. Defendants have not removed such barriers and have not modified the  
25 Business to conform to accessibility regulations.  
26  
27  
28

**FIRST CAUSE OF ACTION**

**VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

15. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation. *See* 42 U.S.C. § 12182(a).

17. Discrimination, *inter alia*, includes:

- a. A failure to make reasonable modification in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden. 42 U.S.C. § 12182(b)(2)(A)(iii).
- c. A failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an

establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

- d. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path or travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope. 42 U.S.C. § 12183(a)(2).

18. Where parking spaces are provided, accessible parking spaces shall be provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall be van parking space. 2010 ADA Standards § 208.2.4.

19. Under the ADA, the method and color of marking are to be addressed by State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California Building Code (“CBC”), the parking space identification signs shall include the International Symbol of Accessibility. Parking identification signs shall be reflectorized with a minimum area of 70 square inches. Additional language or an additional sign below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A parking space identification sign shall be permanently posted immediately adjacent and

1 visible from each parking space, shall be located with its centerline a maximum of 12  
2 inches from the centerline of the parking space and may be posted on a wall at the  
3 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

4 20. Moreover, an additional sign shall be posted either in a conspicuous place at  
5 each entrance to an off-street parking facility or immediately adjacent to on-site  
6 accessible parking and visible from each parking space. The additional sign shall not be  
7 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
8 letters with a minimum height of 1 inch the following: "Unauthorized vehicles parked in  
9 designated accessible spaces not displaying distinguishing placards or special license  
10 plates issued for persons with disabilities will be towed always at the owner's expense..."  
11 *See* CBC § 11B-502.8, *et seq.*

12 21. Here, Defendants failed to provide the parking space identification sign with  
13 the International Symbol of Accessibility. In addition, Defendants failed to provide signs  
14 stating "Minimum fine \$250" or "Van Accessible." Moreover, Defendants failed to  
15 provide the additional sign with the specific languages stating "Unauthorized vehicles  
16 parked in designated accessible spaces not displaying distinguishing placards or special  
17 license plates issued for persons with disabilities will be towed always at the owner's  
18 expense..."

19 22. For the parking spaces, access aisles shall be marked with a blue painted  
20 borderline around their perimeter. The area within the blue borderlines shall be marked  
21 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
22 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
23 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
24 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
25 11B-502.3.3.

26 23. Here, Defendants failed to properly maintain the access aisles as there was  
27 no "NO PARKING" or blue lines painted on the parking surface. Moreover, Defendants  
28 failed to provide the access aisle with the minimum width of 96 inches.

1           24. The side wall grab bar shall be 42 inches (1065 mm) long minimum, located  
2 12 inches (305 mm) maximum from the rear wall and extending 54 inches (1370 mm)  
3 minimum from the rear wall. 2010 ADA Standards § 604.5.1. The rear wall grab bar  
4 shall be 36 inches (915 mm) long minimum and extend from the centerline of the water  
5 closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on  
6 the other side. 2010 ADA Standards § 604.5.2

7           25. Here, Defendants failed to properly install the grab bars as required by the  
8 Standards.

9           26. A public accommodation shall maintain in operable working condition those  
10 features of facilities and equipment that are required to be readily accessible to and usable  
11 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to  
12 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in  
13 violation of Plaintiff's rights under the ADA and its related regulations.

14           27. The Business has denied and continues to deny full and equal access to  
15 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
16 discriminated against due to the lack of accessible facilities, and therefore, seeks  
17 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
18 by individuals with disabilities.

19                           **SECOND CAUSE OF ACTION**

20                           **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

21           28. Plaintiff incorporates by reference each of the allegations in all prior  
22 paragraphs in this complaint.

23           29. California Civil Code § 51 states, "All persons within the jurisdiction of this  
24 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
25 national origin, disability, medical condition, genetic information, marital status, sexual  
26 orientation, citizenship, primary language, or immigration status are entitled to the full  
27 and equal accommodations, advantages, facilities, privileges, or services in all business  
28 establishments of every kind whatsoever."

30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial, or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

31. California Civil Code § 51(f) specifies, “a violation of the right of any individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

32. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, facilities, privileges, or services by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. Defendants have discriminated against Plaintiff in violation of California Civil Code §§ 51 and 52.

33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

### **THIRD CAUSE OF ACTION**

#### **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

34. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise

provided), telephone facilities, adoption agencies, private schools, hotels, loading places, places of public accommodations, amusement, or resort, and other places in which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

36. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

37. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

38. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, and facilities by physically disabled persons within the meaning of California Civil Code § 54. Defendants have discriminated against Plaintiff in violation of California Civil Code § 54.

39. The violations of the California Disabled Persons Act caused Plaintiff to experience difficulty, discomfort, and embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

#### **FOURTH CAUSE OF ACTION**

#### **UNFAIR COMPETITION ACT**

40. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

1 41. Defendants have engaged in unfair competition, unfair or fraudulent  
2 business practices, and unfair, deceptive, untrue or misleading advertising in violation of  
3 the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

4 42. Defendants engage in business practices and policies that create systemic  
5 barriers to full and equal access for people with disability in violation of state and federal  
6 law.

7 43. The actions and omissions of Defendants are unfair and injurious to  
8 Plaintiff, a consumer of the Business' goods and services. As a result of Defendants'  
9 unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not  
10 provided with goods and services provided to other consumers. Plaintiff seeks relief  
11 necessary to prevent Defendants' continued unfair business practices and policies and  
12 restitution of any money that Defendants acquired by means of such unfair competition,  
13 including profits unfairly obtained.

14 **FIFTH CAUSE OF ACTION**

15 **NEGLIGENCE**

16 44. Plaintiff incorporates by reference each of the allegations in all prior  
17 paragraphs in this complaint.

18 45. Defendants have a general duty and a duty under the ADA, Unruh Civil  
19 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
20 to the Plaintiff.

21 46. Defendants breached their duty of care by violating the provisions of ADA,  
22 Unruh Civil Rights Act and California Disabled Persons Act.

23 47. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
24 has suffered damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;
2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;
3. Award of all reasonable restitution for Defendants' unfair competition practices;
4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;
5. Prejudgment interest pursuant to California Civil Code § 3291; and
6. Such other and further relief as the Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: April 28, 2018

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason Yoon  
Jason Yoon, Esq.  
Attorneys for Plaintiff